

AFFIDAVIT OF CELESTE INGALLS

COURT: **UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

CAPTION: **MATTHEW F. ABBOTT, Plaintiff
v.
STARLINGER NORTH AMERICA, INC., et al., Defendants**

CASE NO.: **08 C 642**

OREGON)
) ss.
County of Multnomah)

I declare that I, Celeste Ingalls, am a citizen of Oregon, over the age of twenty-one, not a party nor an attorney for any party in this action, and state the following:

1. I have specialized in the service of civil process in foreign countries for more than 12 years; and
2. Austria is not a signatory to any treaty, convention or multilateral agreement for the service of judicial documents; and
3. The Austrian Government has declared that service by formal letter rogatory request shall be the only method of service allowed by law and any other attempt at service shall be viewed as an affront to Austria's judicial sovereignty; and
4. The United States Department of State has been designated as the entity authorized to accept, and dispatch under diplomatic note, service of process under the provisions of a Letter Rogatory; and
5. The Ministry of Justice in Austria is the entity authorized to receive and effect the service of judicial documents, under cover of diplomatic note, in Austria in response to a letter rogatory; and
6. On April 30, 2008, I forwarded the Request for International Judicial Assistance (executed by Judge John W. Darrah on April 8, 2008), Summons in a Civil Case and Complaint, with requisite Austrian Court certified German translations of all, through the appropriate diplomatic channels to be properly served in Austria upon **Starlinger & Company Gesellschaft mbH**; and

7. There is no obligatory time frame for effecting service by letter rogatory request; and
8. My experience is that service in Austria in response to a formal letter rogatory request takes approximately 6 months to effect, dependent upon the location where the service is to take place, but could take up to 10 months or more.

Celeste Ingalls

SUBSCRIBED AND SWORN to before me this 10th day of June, 2008.



NAO Sakamoto
Notary Public for Oregon

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WHAT TO EXPECT NOW
RELATING TO SERVICE VIA LETTER ROGATORY

1. It is likely that you will hear from the defendant or defense counsel (in the form of answer/response or correspondence) prior to receiving confirmation or proof of service. This is unavoidable when it occurs and *does not mean we have information or a proof of service*. Proof of service certificates often take a minimum of 30 to 60 days, AFTER service is performed, to be returned by the foreign authority through the requisite diplomatic channels.
2. The proof of service documents(s) will be returned **DIRECTLY TO THE FORUM COURT** that signed the letter rogatory request. They will not get returned to our office or yours. This is a State Department Diplomatic requirement that we cannot circumvent.

The documents are sent by the foreign authorities to the appropriate U.S. Consular Representative in the country where service is made (usually a U.S. Embassy if there is one). The Consular Representative is then required to return the proof of service certificate, under diplomatic cover, to U.S. State Department who then will return the documents to the court.
3. **WE WILL NOT HAVE COPIES of returned proof of service certificates** except in extreme exceptions. In addition, although we are "USUALLY" advised by the State Department when documents returned to the court, there is no guarantee and they are not required to do so. If we were to receive any proof of service information or documentation, you would be notified immediately.
4. When the documents are returned by the foreign authority, they may be in the official language of whatever country in which service is performed, especially if translation was required when service was initiated. If so, the documents will require translation to English for your court. Unfortunately, because proofs vary, translation costs cannot be quoted in advance. Therefore, translation costs will be additional and at your expense.
5. Please do not expect our office to have any status regarding the service(s). Service can take several months from the date it sent abroad, depending on the country in which service is performed. We do not request status until a service has been abroad for at least 6 months for most countries, longer for some. The foreign authorities rarely, if ever, provide status if requested before this time frame, and most will NEVER provide status at all. Occasionally we are able to get information from the applicable U.S. Consular representative, if they are able to get it, but the foreign authorities are not obligated to provide status.
6. There is no guarantee service can be stopped once started. If your case settles before service is complete we can only *request* the foreign authorities cancel the service. However, they are under no obligation to respond to such a request.
7. When we receive the proof of service documents from the authorities they are immediately returned to you.
8. Contact our office at any time if you require affidavits to inform the court that a service is still in progress.

If you have any questions about this information please feel free to contact us.